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8 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

11 THE REGENTS OF THE  
12 UNIVERSITY OF CALIFORNIA,

13 Plaintiff,

14 vs.

15 INDEMNITY INSURANCE  
16 COMPANY OF NORTH AMERICA,  
17 DOES 1 TO 20,

18 Defendants.

) Case No.: C 07 2721 PJH

) **[PROPOSED]**

) ORDER GRANTING  
) PLAINTIFF REGENTS OF THE  
) UNIVERSITY OF CALIFORNIA'S  
) MOTION TO REMAND ACTION TO  
) STATE COURT

) **Hearing Date: August 15, 2007**

) **Time: 9:00 a.m.**

) **Courtroom: 3**

) **Assigned to the Honorable Phyllis J.  
Hamilton**

20  
21 The Plaintiff Regents' Motion for an Order remanding this action to  
22 Superior Court of the State of California, in and for the County of Alameda, came  
23 on for hearing at the above-noted date and time. After considering the papers and  
24  
25

1 arguments submitted by counsel, and good cause appearing, the Court GRANTS  
2 the motion.

3 This action was removed on the basis of alleged diversity jurisdiction. As  
4 such, it must be shown that this action involves a case or controversy between  
5 citizens of different states. However, the plaintiff Regents is not “citizen” of a  
6 state. Rather, the Regents is a branch of the government of the State of California.  
7 *Regents of the University of California v. Doe*, 519 U.S. 425, 430-31 (1997)  
8 (finding 11<sup>th</sup> amendment immunity); *Regents of the University of California v.*  
9 *City of Santa Monica* (1978) 77 Cal. App. 3d 130, 136. The United Supreme  
10 Court has recognized that a state itself is not a “citizen” of a state so as to confer  
11 diversity jurisdiction. *Postal Telegraph Cable Co. v. Alabama*, 155 U.S. 482, 487  
12 (1894).

13 This Court finds that it is lacking jurisdiction over this matter. Therefore,  
14 the appropriate step is to remand the matter to the Superior Court of California, in  
15 and for the County of Alameda, the court from which the matter was removed.

16 IT IS SO ORDERED.

17 DATED: \_\_\_\_\_

18 \_\_\_\_\_  
19 Hon. Phyllis J. Hamilton  
20 Judge, United States District Court

CERTIFICATE OF SERVICE

I, Michael P. O'Bresly, hereby certify that on this the 11<sup>th</sup> of July, 2007, at approximately 2:00 p.m., I caused a true copy of this document, Regents' Proposed Order on Motion to Remand to State Court, to be transmitted to counsel of record for the defendant Indemnity Insurance Company of America Inc. via electronic mail.

Dated: July 11, 2007

/s/ Michael P. O'Bresly